

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION**

JANE DOE 1, JANE DOE 2 and JANE
DOE 3,

Plaintiffs,

v.

Case No: 6:23-cv-788-WWB-LHP

VARSITY BRANDS, LLC, VARSITY
SPIRIT, LLC, VARSITY BRANDS
HOLDING COMPANY, INC., U.S.
ALL STAR FEDERATION, INC., USA
FEDERATION FOR SPORT
CHEERING, CHARLESBANK
CAPITAL PARTNERS, LP, BAIN
CAPITAL, LP, JEFF WEBB,
CHAMPION ELITE LEGACY,
ASHLEY HUGHES and ERICK
KRISTIANSON,

Defendants

ORDER

This cause came on for consideration without oral argument on the following
motion filed herein:

**MOTION: APPLICATION FOR ENTRY OF DEFAULT AS TO
DEFENDANT ERICK KRISTIANSON AND
MEMORANDUM IN SUPPORT (Doc. No. 83)**

FILED: June 26, 2023

THEREON it is ORDERED that the motion is DENIED without prejudice.

Before the Court is Plaintiffs' renewed motion for Clerk's default against Defendant Erick Kristianson. Doc. No. 83. The Court denied Plaintiffs' first motion without prejudice for failure to adequately address, with citation to legal authority, that service of process on Mr. Kristianson was proper under governing law. See Doc. No. 47. The renewed motion suffers the same deficiency.

Specifically, in the renewed motion, Plaintiffs state that Mr. Kristianson was served with a copy of the summons and complaint by certified mail received by Mr. Kristianson's mother. Doc. No. 83 ¶ 2-4. See also Doc. No. 13. But Plaintiffs provide citation to no legal authority demonstrating that service of process by certified mail received by someone other than the named Defendant suffices.¹ Notably, service by certified mail is insufficient under both Florida and federal law,²

¹ Instead, Plaintiffs' renewed motion merely includes a conclusory assertion that Mr. Kristianson "was properly served" and has failed to timely respond or appear. Doc. No. 83, at 3, 4.

² See, e.g., *Stratton v. Napolitano*, No. 8:11-cv-2651-T-35TGW, 2012 WL 12899117, at *1 (M.D. Fla. Aug. 28, 2012) ("Service by certified mail is not personal delivery, and, therefore, it is not sufficient under federal law. Moreover, service by certified mail, without an accompanying waiver, is not sufficient under Florida law." (citations omitted)).

and Plaintiffs provide no explanation as to whether any other jurisdiction's law would apply.

Accordingly, the renewed motion (Doc. No. 83) is **DENIED without prejudice**. Plaintiffs shall file a renewed motion on or before **July 5, 2023**, addressing these issues, which renewed motion must establish, with citation to legal authority, that service of process was proper under governing law.

DONE and ORDERED in Orlando, Florida on June 27, 2023.



LESLIE HOFFMAN PRICE
UNITED STATES MAGISTRATE JUDGE

Copies furnished to:

Counsel of Record
Unrepresented Parties